

★ MAR 26 2012 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MUKESH K. PAREKH,

LOM J. FICE

Plaintiff,

-against-

ORDER

10-CV-5599(SJF)(ARL)

ECONOMY PREMIER ASSURANCE COMPANY;
METLIFE AUTO & HOME INSURANCE COMPANY,
INC., a/k/a METLIFE AUTO & HOME INSURANCE
AGENCY, INC.; METROPOLITAN PROPERTY AND
CASUALTY INSURANCE COMPANY; and
THE TOWN AGENCY, INC.,

Defendants.

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FEUERSTEIN, District Judge:

Pending before the Court is the Report and Recommendation ("the Report") of Magistrate Judge Arlene R. Lindsay, dated January 17, 2012, recommending that this action be *sua sponte* remanded to the Supreme Court of the State of New York, Nassau County pursuant to 28 U.S.C. § 1447(c) and that the motion of defendant The Town Agency, Inc. ("Town Agency") to dismiss the complaint pursuant to Rules 12(b)(6) and/or 56 of the Federal Rules of Civil Procedure be denied as moot. No objections to the Report have been filed. For the reasons stated herein, the Court accepts Magistrate Judge Lindsay's Report in its entirety and *sua sponte* remands this action to the Supreme Court of the State of New York, County of Nassau pursuant to 28 U.S.C. § 1447(c).

I. Standard of Review

Any portion of a report and recommendation on dispositive matters, to which a timely

objection has been made, is reviewed *de novo*. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b). The court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See, Thomas v. Arn, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. See, Fed. R. Civ. P. 72(b); Spence v. Superintendent, Great Meadow Correctional Facility, 219 F.3d 162, 174 (2d Cir. 2000) (a court may review a report to which no timely objection has been interposed to determine whether the magistrate judge committed “plain error.”); Johnson v. Goord, 487 F.Supp.2d 377, 379 (S.D.N.Y. 2007), aff’d, 305 Fed. Appx. 815 (2d Cir. 2009). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge’s findings or recommendations. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

II. Review of Report

No party has filed any objection to Magistrate Judge Lindsay’s Report. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts Magistrate Judge Lindsay’s Report as an Order of the Court.

III. Conclusion

For the reasons set forth therein, Magistrate Judge Lindsay’s Report is accepted in its entirety; this action is *sua sponte* remanded to the Supreme Court of the State of New York, County of Nassau pursuant to 28 U.S.C. § 1447(c); and Town Agency’s motion to dismiss is

denied as moot. The Clerk of the Court is directed to close this case and to mail a certified copy of this order to the clerk of the Supreme Court of the State of New York, County of Nassau in accordance with 28 U.S.C. § 1447(c).

SO ORDERED.

s/ Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: March 26, 2012
Central Islip, New York